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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,354	10/25/2006	Gunther Ellenrieder	3926.167	7305
30448	7590	12/31/2007	EXAMINER	
AKERMAN SENTERFITT			PHAN, HAU VAN	
P.O. BOX 3188			ART UNIT	PAPER NUMBER
WEST PALM BEACH, FL 33402-3188			3618	
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			12/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,354	Applicant(s) ELLENRIEDER ET AL.	
	Examiner Hau V. Phan	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/30/06; 8/21/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 6/30/2006 and 8/21/2006 are being considered by the examiner.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "a motor vehicle, the passenger cell of which is" is not clear, whether the preamble recite a motor vehicle of the passenger cell of which is or the motor vehicle comprising a passenger cell, which is integrated into the vehicle.

Regarding claim 1, the phrase "by means of which," is not clear, whether it refers to.

Regarding claim 1, the phrase "over the entire crash path and at the other end bear an impact receptacle" is not, which crash path it refers to and the other end of what structure.

Regarding claim 7, the term "and/or" renders the claim in alternative form.

Regarding claims 7 and 9, the phrase "such a manner that" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 9, the word "by means" is not clear, what it refers to.

Regarding claims 12, the phrase "on the other hand" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

5. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-8 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Motozawa (6,578,894).**

Motozawa in figures 1-6, discloses a motor vehicle comprising a passenger cell (2), which is integrated into the rest of the vehicle as a separate unit, having a device, which in event of a crash, the passenger cell can be moved in the longitudinal direction of the vehicle relative to the rest of the vehicle and at the same time upward, via guide surfaces (1), which are arranged on the rest of the vehicle and against which the passenger cell bears; wherein the device is designed in such a manner that the entire passenger cell can be moved in the opposite direction to the impact in a translatory manner.

Regarding claim 2, Motozawa discloses the device contains at least one sliding element (4a), which is arranged along the longitudinal direction of the vehicle, and can be actuated in the longitudinal direction of the vehicle by the impact force and is connected at one end to the passenger cell over the entire crash path and at the other end bears an impact receptacle.

Regarding claim 3, Motozawa discloses the sliding element, which is fastened to a vehicle structure, which is situated essentially below the passenger cell and has a section, which can be pushed together in the longitudinal direction of the vehicle and is moveable relative to the sliding element (see figure 3).

Regarding claim 4, Motozawa discloses the section, which is part of a longitudinal member of the vehicle structure, which rest on the passenger cell.

Regarding claim 5, Motozawa discloses the section, which is folded in the manner of a concertina, with it buckling in the transverse direction of the vehicle.

Regarding claim 6, Motozawa discloses the vehicle structure comprising first components (2a) and second components (1a). The first components are being of hollow design and engaging around the second, with an overlapping zone (IV) being formed and with an empty distance being left free, over which the second components can be displaced in the first components in the event of a crash, and in that the second components with the first components are fastened to one another in the zone by a connection which can be sheared off in the crash.

Regarding claim 7, Motozawa discloses the sliding element, which is fitted to the front end or rear end and wherein the vehicle structure situated below the passenger cell and the adjacent walls of the front end or rear end are designed in such a manner that in the event of a crash, the structure penetrates the walls.

Regarding claim 8, Motozawa discloses the impact receptacle (a front end of portion 2a) of the sliding element, which is mounted upstream of the passenger cell.

Regarding claim 11, Motozawa discloses the passenger cell resting at the front and rear on the guide surfaces, which are parallel to one another and face obliquely upward to the impact direction.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Motozawa (6,578,894) as applied to claim 1 above, and further in view of Faigle et al. (6,206,416).**

Motozawa disclose the device, but fails to show a crash sensor.

Faigle et al. in figures 1-2, teach a vehicle safety system comprising a first vehicle safety device (50) including a pyrotechnic device (62) and a crash sensor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the motor vehicle of Motozawa with the addition of a vehicle safety system having a pyrotechnic device and crash sensor as taught by Faigle et al. in order to improve a safety to a motor vehicle.

Allowable Subject Matter

10. Claims 9-10 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schlanger discloses a safety vehicle.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hau V Phan
Primary Examiner
Art Unit 3618


12/17/07